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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARCOS ISRAEL ROSALES,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-71482

Agency No. A70-780-610

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007^{**}

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

Marcos Israel Rosales, a native and citizen of Guatemala, petitions for review of an order of the Board of Immigration Appeals affirming an immigration

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

judge's ("IJ") decision denying his applications for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT"). To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review a denial of asylum for substantial evidence, *INS v. Elias-Zacarias*, 502 U.S. 478, 481 (1992), and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the IJ's determination that Rosales failed to establish past persecution. Unfulfilled threats, without more, generally do not rise to the level of persecution. *See Lim v. INS*, 224 F.3d 929, 936 (9th Cir. 2000) (Threats may constitute persecution "when the threats are so menacing as to cause significant actual suffering or harm.") (citation and quotation omitted).

To the extent Rosales challenges the IJ's finding that he did not establish a well-founded fear of future persecution, we conclude that substantial evidence supports the IJ's finding, in light of changed country conditions in Guatemala and the generalized nature of Rosales's fear. *See Molina-Estrada v. INS*, 293 F.3d 1089, 1095-96 (9th Cir. 2002).

Because Rosales did not establish eligibility for asylum, it follows that he failed to establish eligibility for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

We lack jurisdiction to consider Rosales's challenge to the denial of CAT protection because he failed to raise it before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 678 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part and DISMISSED in part.